
**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	
)	
W. R. GRACE & CO., <i>et al.</i> ,)	Case No. 07-00536 (RLB)
)	Hon. Ronald L. Buckwalter
<i>Debtors.</i>)	United States District Judge
)	(by special designation)
<hr/>		
STATE OF NEW JERSEY,)	
DEPARTMENT OF ENVIRONMENTAL)	
PROTECTION,)	
<i>Appellants,</i>)	
)	
v.)	
)	
W. R. GRACE & CO., <i>et al.</i>)	
)	
<i>Appellees.</i>)	
)	

On Appeal From The United States Bankruptcy Court
For The District of Delaware (Fitzgerald, J.)
Case No. 01-01139

BRIEF OF APPELLEES

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INTRODUCTION¹

Despite the NJDEP's assertions that it was "impossible" for it to know that it had a claim before the Bar Date, the NJDEP clearly was aware of its potential claim no later than November 2002, several months before the Bar Date. The NJDEP has conceded receiving notice of the Grace Chapter 11 petitions, notice of the Bar Date, and copies of a memorandum from the EPA that alerted the NJDEP of its potential claim well in advance of the Bar Date. The NJDEP has failed to satisfactorily explain why it did not file a timely claim based on such knowledge. The fact that the NJDEP is a governmental bureaucracy or that it made a mistake of law in understanding when to file a claim, do not constitute "excusable neglect" permitting the NJDEP to now file a claim against the Debtors.

Further, the NJDEP has not justified its failure to file a claim for nearly four years *after* the Bar Date, admitting that it was aware of its claim in the fall of 2003. In "support" of its four-year delay, the NJDEP cites *only one case*, which is an unpublished opinion, not controlling in the Third Circuit, and not on point because the claimant therein could not have known about its claim prior to the bar date in that case and filed a claim within *one and a half months* of finding out about its claim, not *four years*. The NJDEP simply has no excuse.

In what appears to be a last ditch effort, the NJDEP attempts to taint this Court's review by raising several new but irrelevant issues in this appeal. The sole issue before this Court is whether the Bankruptcy Court's finding that the NJDEP failed to satisfy the "excusable neglect" standard for filing late claims should be sustained. The Bankruptcy Court correctly concluded that the NJDEP failed to satisfy the relevant "excusable neglect" test set forth by the Supreme Court in Pioneer. Accordingly, the Bankruptcy Court's decision should be affirmed.

¹ See Statement of the Facts section herein for definition of capitalized terms.

STATEMENT OF THE CASE AND THE FACTS²

For over 30 years, W. R. Grace & Co.-Conn. (“Grace”) operated a vermiculite processing plant located in Hamilton Township, New Jersey (the “Hamilton Plant”). (A-118(a), ¶ 2). In 1995, Grace submitted a report regarding the environmental condition of the Hamilton Plant (the “1995 Grace Report”) to the New Jersey Department of Environmental Protection (the “NJDEP”). (A-52(a)). The 1995 Grace Report was prepared by an environmental consultant on behalf of Grace in connection with the closing of the Hamilton Plant. (A-121(a), ¶ II(C)(1)). Based on the 1995 Grace Report, the NJDEP issued no further action letters for the Hamilton Plant in August and November 1995. See Appellant Brief at p. 7.

In the period from October 2000 to August 2001, the United States Environmental Protection Agency (the “EPA”) sampled the Hamilton Plant and its surroundings, and found concentrations of asbestos in the soil at the Hamilton Plant. (A-116(a), ¶ II(A)(1)).

On April 2, 2001, Grace and its debtor affiliates (collectively, the “Debtors”) filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”). Pursuant to section 362 of the Bankruptcy Code, an automatic stay immediately went into effect, which prohibits the commencement of any actions against the Debtors. Also, at that time, creditors, including various agencies within the State of New Jersey, received notice of the bankruptcy petitions. Bankr. D.I. 279 - 286.³

On August 14, 2001, a Deputy Attorney General for the State of New Jersey, on behalf of the NJDEP, filed a Notice of Appearance and Request for Service of Papers and Other Documents in these chapter 11 cases. Bankr. D.I. 837.

² Citations to “A-___” herein refer to the designated pages in the Appendix to the Appellant Brief.

³ Bankr. D.I. 279 - 286 are not imaged. The relevant pages from these docket entries are attached to this Appellee Brief as Exhibit 1.

The Debtors' schedules filed in June, 2001 (the "Schedules") contained multiple entries for the NJDEP. All scheduled claims for the NJDEP were for environmental liabilities, in unknown amounts, and marked as contingent, unliquidated and disputed. Specifically, there are 11 entries on the Schedules for the NJDEP.⁴ Bankr. D. I. 426.⁵

By an order dated April 22, 2002 (the "Bar Date Order"), this Court set March 31, 2003 as the last date for filing proofs of claim for all pre-Petition Date claims relating to (i) asbestos property-damage, (ii) non-asbestos claims (including all governmental claims), and (iii) medical monitoring claims (the "Bar Date"). Bankr. D.I. 1963. The Bar Date Order provides as follows:

Any person holding an Asbestos Property Damage Claim, Medical Monitoring Claim or Non-Asbestos Claim who does not file a completed Proof of Claim Form on or before the Bar Date shall be forever barred to the extent of applicable law from (a) participating in the Debtors' estates; (b) voting with respect to any plan of reorganization filed in these cases; and (c) receiving any distribution from the Debtors or any entity created pursuant to or in connection with any confirmed plan of reorganization in these cases....

Bankr. D.I. 1963 at ¶ 6. The Bar Date Order further provides that, "notice of entry of this Order and of the Bar Date shall be deemed good, adequate and sufficient notice of the Bar Date and all procedures and requirements in connection therewith if served together with the Bar Date Notice Package" Bankr. D.I. 1963 at ¶ 4.

The notice (the "Bar Date Notice") that was sent to all known claimants and published in several national and local newspapers also makes it abundantly clear that the failure to file a

⁴ The following divisions or employees of the NJDEP were listed on the Schedules: Division of Responsible Party Site Remediation Attn: Richard Burgos (Trenton, NJ), Division of Site Remediation Attn: Gary Gruelich (Project Manager) (West Orange, NJ), Southern Air Program Attn: Harry Hornikel (Camden, NJ), Bureau of Fund Management Compliance & Recovery (Trenton, NJ), and the following employees: Deborah Cowell, Sergio Honl (Case Manager), Robert Shinn Jr. (Commissioner), and NJDEP Section Chief.

⁵ Bankr. D.I. 426 is not imaged and the Debtors had not included copies of the Schedules in their Objection to the NJDEP Late Claim Motion. During oral argument, Judge Fitzgerald requested copies of the Schedules. The
(Continued...)

claim by the Bar Date will result in a forfeiture of such a claim against any of the Debtors' estates. Bankr. D.I. 1960. The Bar Date Notice states in section 9, "EFFECT OF NOT FILING A CLAIM":

ANY HOLDER OF A [CLAIM] . . . WHO FAILS TO FILE A PROOF OF CLAIM ON OR BEFORE THE BAR DATE . . . ,
SHALL BE FOREVER BARRED, ESTOPPED AND ENJOINED
 FROM ASSERTING ANY SUCH CLAIMS (OR FILING A PROOF OF CLAIM WITH RESPECT TO SUCH CLAIMS) AGAINST ANY OF THE DEBTORS, THEIR PROPERTY OR THEIR ESTATES

Bankr. D.I. 1960 at ¶ 9 (emphasis added).

Once the detailed proof of claim forms were approved and the Bar Date Order was entered, the Debtors spent over \$4 million serving and publishing the Bar Date Notice. Bankr. D.I. 1963.

On June 21, 2002, the Debtors' servicing agent properly served the NJDEP with several copies of the Bar Date Notice. (A-110(a)-113(a)).⁶ The NJDEP admits it received the Bar Date Notice and had knowledge of the Bar Date. (A-5(a):16-17).

In early November 2002, the EPA provided the NJDEP with copies of a fourteen-page EPA Action Memorandum titled "Request for a Time Critical Removal Action at the former W.R. Grace/Zonolite Site in Hamilton Township, Mercer County, New Jersey Action Memorandum" (the "EPA Memorandum"). (A-128(a)). The NJDEP does not dispute receipt of the EPA Memorandum. (A-177(a)-178(a), ¶¶ 9-10).

relevant pages of the Schedules were handed up in open court. These pages are attached to this Appellee Brief as Exhibit 2.

⁶ Notice was sent to the New Jersey Department of Environmental Protection including the following divisions: Division of Responsible Party Site Remediation, Division of Site Remediation Attn: Gary Gruelich (Project Manager) (West Orange, NJ), Southern Air Program, Bureau of Fund Management Compliance & Recovery (Trenton, NJ), and the following employees: Deborah Cowell, Robert Shinn Jr. (Commissioner), and NJDEP Section Chief.

The EPA Memorandum set forth a detailed analysis of, among other things, the Hamilton Plant site conditions and background, environmental investigations conducted to date, alleged releases or threatened releases of asbestos into the environment, and the alleged resultant threats to the public health or welfare. (A-115(a)-134(a)). In a section of the EPA Memorandum entitled “Potential for Continued State/Local Response,” the EPA observed that:

State and local governments agencies are not able to undertake timely response actions to *eliminate the threats* posed by the [Hamilton Plant] Site. The state and local governments do not have the resources to conduct *the required cleanup actions*. However, both organizations will support EPA during this removal action.

(A-122(a) at ¶ 8, § II(C)(2) (emphasis added)).

The EPA Memorandum also quotes statements contained in the 1995 Grace Report submitted to the NJDEP. Specifically, the EPA Memorandum states that in reliance on the statements in the 1995 Grace Report, the NJDEP issued a no further action letter. The EPA Memorandum also contains an express statement by the EPA alleging that Grace’s representations in the 1995 Grace Report were inaccurate:

Based upon [the 1995 Grace Report] and in accordance with ISRA [], no further action (NFA) was approved by the NJDEP on November 15, 1995.... It is EPA’s viewpoint that the information described above, as contained in the [1995 Grace Report], is inaccurate for the following reasons....

(A-121(a)-122(a), ¶ II(C)(1)). Robert Van Fossen and Janet Smolenski, who the Debtors understand are both still employed by the NJDEP, were copied on the EPA Memorandum.

(A-128(a)).

A November 6, 2002 entry on a chronology produced by the EPA, confirms that the EPA Memorandum was forwarded to the NJDEP. (A-136(a)). That same entry states: “[NJDEP] also kept abreast of removal activities via [Pollution Reports].” (A-136(a)).

Despite receiving notice of the Grace Chapter 11 petitions, notice of the Bar Date, and copies of the EPA Memorandum well in advance of the Bar Date, the NJDEP failed to file any proofs of claim associated with the Hamilton Plant. Various other New Jersey governmental entities filed eleven different timely proofs of claim.⁷

By its own admission, at the very latest, the NJDEP became aware of alleged contamination at the Hamilton Plant in or about the fall of 2003 when the NJDEP was asked by the New Jersey Department of Health and Senior Services to comment on a draft Health Assessment for the Hamilton Plant. See Appellant Brief at p. 8. The NJDEP, however, did not file or seek leave to file a late proof of claim at that time.

Also by its own admission, “by 2003, the extent of the contamination ... was delineated and excavation activities began.” See Appellant Brief at p. 8. The EPA completed the first phase of remediation at the Hamilton Plant site in April 2004. (A-138(a)). In conjunction with the remediation, the EPA conducted “extensive sampling of residential properties surrounding the [Hamilton Plant] site and found no asbestos above the level that sophisticated lab instruments can reliably measure.” (A-138(a)). The final stage of clean-up began in late 2006 and the Debtors understand that the clean-up has been completed.

On June 1, 2005, more than four years after the Petition Date, and more than two years after the Bar Date, the NJDEP filed a state court action against Grace and certain of its employees alleging that they had made misrepresentations and false statements in the 1995 Grace Report with respect to the closure of the Hamilton Plant (the “New Jersey Action”).⁸

⁷ The New Jersey Proofs of Claim are identified as Proof of Claim Nos. 144, 358, 359, 785, 871, 1213, 1214, 15324, 15351, 17054, 17055.

⁸ See NJDEP v. W.R. Grace & Co., Inc., W.R. Grace & Co.-Conn., Grace-Conn. Successor, Jay H. Burrill & Robert J. Bettacchi, (June 1, 2005) (the “Complaint”). (A-315(a)-316(a), ¶¶ 59, 61). The NJDEP’s complaint charges Grace with violating two state statutes, the Industrial Site Recovery Act and the New Jersey Spill, (Continued...)

(A-298(a)-321(a)). In that Complaint, the NJDEP demanded over \$800 million in alleged penalties. (A-318(a), ¶¶ (a)-(f)). Again, the NJDEP did not file or seek leave to file a late proof of claim at that time.

The New Jersey Action does not seek cessation of a public health, safety or environmental threat, remediation of the Hamilton Plant site, or recovery of clean-up costs. As outlined above, the remediation of the Hamilton Plant site occurred under the auspices of the federal government, with any and all oversight costs borne by the EPA and other potentially responsible parties, and not the NJDEP. The Debtors understand that the remediation has been completed. Therefore, the New Jersey Action only seeks to collect a penalty for the Debtors' failure to "correct" the allegedly false 1995 Grace Report provided to the NJDEP over twelve years ago.

In September 2005, the Debtors filed an adversary complaint in the Bankruptcy Court, and a motion for an injunction under sections 105 and 362 of the Bankruptcy Code, seeking to enjoin the NJDEP from prosecuting the New Jersey Action (the "Injunction Motion"). (A-229(a)-247(a)).

The Bankruptcy Court heard the Injunction Motion on November 14, 2005 and observed that "the fine is not the damage, it's simply a penalty . . . [s]o I'm not sure how that's not stayed by 362." (A-281(a):18-22). The Court then issued "a temporary stay . . . so that the parties can

Compensation and Control Act. The Complaint alleges that Grace and two of its employees failed to disclose material facts concerning the risks of processing vermiculite in a June 5, 1995 report submitted to the NJDEP. (A-315(a)-317(a), ¶¶ 60-64). The Complaint further alleges that "[s]ince June 5, 1995, each of the Defendants has continued to withhold the correct information that should have been included in the [report] and has failed to correct the misinformation provided in the [report]." (A-317(a), ¶ 65). The NJDEP asserts that the Defendants have committed a separate violation of each statute for every "day Defendants failed to correct the false information." (A-317(a), ¶ 65). According to the NJDEP, these alleged violations could amount to over \$800 million in penalties (civil penalty for each person, officer or management official for not more than \$75,000 per day for each offense starting in 1995 and each day the violation continues constitutes an additional and separate offense). (A-318(a), ¶¶ (a)-(f)).

meet and confer in an effort to resolve the issues that were discussed [at the hearing] consensually.” (A-287(a):1-4).

Despite dialogue and inquiries from the Debtors, the NJDEP did not submit a settlement demand to the Debtors until almost a year later on November 2, 2006. On March 5, 2007, representatives of the Debtors and the NJDEP then met to discuss the settlement demand. The matter was not resolved.

On April 2, 2007, the parties reargued the Injunction Motion. At that hearing, the Bankruptcy Court stated that “I am still pretty much convinced that because of the fact that this is not an ongoing problem, that it is not going to be subject to the exception of 362(b)(4).” (A-39(a):13-16). The Court took the Injunction Motion under advisement and the parties currently await a ruling. The issue of whether the New Jersey Action is stayed by section 362 of the Bankruptcy Code or should be enjoined under section 105 of the Bankruptcy Code is not before this Court.

More than six years after the Petition Date, nearly five years after learning of its alleged claim, more than four years after the expiration of the Bar Date, and almost two years after commencing the New Jersey Action, on April 26, 2007, the NJDEP filed its *Brief in Support of Motion Seeking Order to File a Late Proof of Claim* (the “NJDEP Late Claim Motion”). (A-44(a)-88(a)). In the NJDEP Late Claim Motion, the NJDEP seeks leave to file a late proof of claim in the amount of \$30,035,577.00 for “estimated penalties.” (A-60(a)). The late proof of claim attached to the NJDEP Late Claim Motion contains no information regarding the basis for the \$30 million figure. (A-61(a)-88(a)).

The Bankruptcy Court held a hearing on the NJDEP Late Claim Motion on July 23, 2007. After reviewing all of the pleadings and considering the arguments of counsel, the Bankruptcy

Court denied the NJDEP Late Claim Motion. (A-29(a):12-14). That denial was memorialized in an Order dated August 2, 2007 (the “Order”). (A-1(a)). The Bankruptcy Court found that the NJDEP had not established any of the relevant factors needed to establish that the NJDEP met the “excusable neglect” standard to file a late proof of claim. (A-27(a):17 - 29(a):7). The Bankruptcy Court specifically stated the Debtors have been working to resolve all claims and if the NJDEP’s claim “were to be allowed in the amount of \$31 million, that is a substantial claim ..., and as a result, I think it would be prejudicial to this estate if it were to be allowed in that amount.” (A-29(a):3-7).

During oral argument on the NJDEP Late Claim Motion, the Bankruptcy Court stated, several times, that creditors who receive notice of a bankruptcy filing, especially if they are listed as having disputed, unliquidated and contingent claims, are required to investigate the claim and that there is no exception or distinction for a governmental entity. (A-10(a):14-15 and A-12(a):19-20). The Bankruptcy Court also rejected the NJDEP’s contention that the filing of the New Jersey Action in state court constituted an informal proof of claim. (A-7(a):10-19).

On August 10, 2007, the NJDEP timely appealed the Order to this Court. (A-41(a)-43(a)). By order of this Court, the NJDEP’s appellant brief was due on September 27, 2007. The NJDEP failed to file its appellant brief by such date, stating that they had not received notice of the filing requirement. This Court granted the NJDEP an extension after that deadline and the NJDEP filed its appellant brief on November 5, 2007 (the “Appellant Brief”).

ARGUMENT

I. The NJDEP Failed To Prove “Excusable Neglect” Or Even Neglect.

Bankruptcy Rule 9006(b)(1) grants courts the authority to accept late filings of claims where the movant’s failure to comply with the bar date “was the result of excusable neglect.” Fed. R. Bankr. P. 9006(b)(1). The Supreme Court has held that, under this rule, courts are

permitted, *where appropriate*, to accept late filings caused by inadvertence, mistake or carelessness, as well as intervening circumstances beyond the party's control. See Pioneer Inv. Servs. Co. v. Brunswick Ass'n Ltd. P'ship, 507 U.S. 380, 388 (1993).

In determining whether to allow late proofs of claim, the Supreme Court has stated that the court's "inquiry is guided by one of the principal purposes of bankruptcy law, to secure within a limited period the prompt and effectual administration and settlement of the debtor's estate." Katchen v. Landy, 382 U.S. 323, 328 (1966).

The Bankruptcy Court rightfully determined that the NJDEP Late Claim Motion should be denied because the NJDEP failed to satisfy the excusable neglect test set forth in Pioneer. The NJDEP does not dispute that Pioneer sets forth the appropriate standard to determine whether or not the NJDEP should be granted leave to file a late proof of claim. See Appellant Brief at p. 11.

A. The NJDEP's Conscious Disregard of the Bar Date Does Not Constitute Neglect.

The NJDEP must establish neglect before the "excusable neglect" test can even be applied. See Pioneer, 507 U.S. at 388 (stating that before it could determine what sorts of neglect might be considered "excusable," it must first determine there was neglect). If a claimant makes a conscious and informed decision not to file a claim before the bar date, there can be no neglect, leaving the bankruptcy court with no discretion to grant an extension of time for the claimant to file a claim after the bar date has lapsed. See Artificial Intelligence Corp. v. Casey (In re Casey), 198 B.R. 918, 925 (Bankr. S.D. Cal. 1996).

The NJDEP's actions leading up to the filing of the NJDEP Late Claim Motion show a consistent and conscious disregard for the Bankruptcy Court and the Bankruptcy Rules. Thus, the NJDEP cannot possibly demonstrate neglect. For example:

- Prior to the Bar Date, the NJDEP was made aware on two separate occasions (notice of the Petition and notice of the Bar Date) that it may be a potential creditor of the Debtors;
- In 2001, the NJDEP was listed on the Debtors' Schedules 11 separate times as having contingent, unliquidated, disputed environmental claims; and
- In November 2002, the NJDEP received the EPA Memorandum wherein the EPA made clear that the NJDEP had a potential claim, quoting allegedly inaccurate statements made in the 1995 Grace Report upon which the NJDEP had based its no further action letters.

After the Bar Date, the NJDEP spent resources to file the New Jersey Action in state court, but deliberately and consciously waited four years to seek to file a claim in the Grace chapter 11 cases. By its own admission "for awhile there we thought we [would] file[] the complaint in state court and thought we would fix liability. We didn't think about filing a proof of claim." (A-7(a):3-6).

(1) *Prior to the Bar Date, the NJDEP knew of but failed to file its claim.*

The NJDEP contends that its receipt of the EPA Memorandum does not mean that the NJDEP had any "reason to think that the [NJDEP] had a claim for the submittal of false information committed by Grace." (A-177(a)-178(a), ¶¶ 9-10). However, as stated above, the EPA Memorandum explicitly outlined the NJDEP's potential claim and specifically referred to the 1995 Grace Report submitted to the NJDEP. The NJDEP either ignored the EPA Memorandum or mistakenly concluded that it did not have to take action in the Chapter 11 cases to assert any claim it may have.

The NJDEP argues, in effect, that it should be held to a different standard because it is a governmental bureaucracy. (See, e.g., A-8(a):16-20). But, the case law is clear -- governmental agencies receive no special treatment and must file claims like every other claimant. See In re Pigott, 684 F.2d 239, 244 (3d Cir. 1982) (stating that "bureaucratic ineptitude" does not grant the

claimant an extension of the bar date) (*abrogated on other grounds*); see also, In re Int'l Horizons, Inc., 751 F.2d 1213, 1219 (11th Cir. 1985) (wherein the government conceded that it did not have reason to receive special consideration in determination of its late claims); Matter of Dewey Beach Enters., Inc., 110 B.R. 681, 686 (Bankr. Del. 1990) (stating that allowing a governmental entity an extension to file a claim because of a bureaucratic “mix-up” would allow such entity to “be twisted into excusable neglect”).

Additionally, as the Bankruptcy Court stated during oral argument, creditors who are listed on the Debtors’ Schedules as having contingent, unliquidated and disputed claims have “a duty to investigate what the claim is.” (A-11(a):15-18). See also, Pioneer, 507 U.S. at 384 (implying duty of investigation when the Supreme Court stated “you must file a proof of claim if your claim is scheduled as disputed, contingent or unliquidated, is unlisted or you do not agree with the amount”); Nat’l Steel Corp., 316 B.R. 510, 518 (Bankr. N.D. Ill. 2004) (stating that it is a creditor’s “responsibility to explore, investigate and file a proof of claim against... the debtors, not the other way around. The debtors’ actions or inactions are irrelevant.”); Matter of Dewey Beach Enters., 110 B.R. at 684. The NJDEP concedes it was listed on the Schedules in 11 different entries for contingent, unliquidated, disputed environmental claims. (A-9(a):20). It simply ignored its obligation to investigate or file its potential claims against the Debtors.

(2) *After the Bar Date, the NJDEP missed several opportunities to file a claim.*

Assuming, arguendo, that the NJDEP was not aware of its claim until after the Bar Date, at the very least, by the NJDEP’s own admission, it was aware of the alleged contamination that forms the basis for its claim “in or about the Fall of 2003.” See Appellant Brief at p. 8. The NJDEP offers no explanation for its failure to file or seek leave to file a late proof of claim at that time, which would have been only approximately six months after the Bar Date had lapsed.

Instead, the NJDEP offers two arguments to explain its four-year delay in filing the NJDEP Late Claim Motion. Neither argument equates to neglect. Instead, the arguments equate to either an intentional plan to attempt to circumvent the Bar Date or a mistake in the law with respect to the impact of the Bar Date.

First, the NJDEP states there was no need to file a proof of claim because the NJDEP intended to litigate and establish the amount of its claim in state court (“there was no need to file [a motion seeking filing of a late proof of claim] if the [NJDEP] were going to litigate to establish liability as was the purpose of the complaint”) (A-179(a), ¶ 12). The NJDEP is clearly wrong -- a claimant must file a claim before the applicable bar date, even if the claim amount is not yet fixed. See, e.g., In re Grand Union Co., 204 B.R. 864, 871 (Bankr. D. Del. 1997) (*citing* Bankruptcy Rule 3003(c)(2)) (stating any creditor whose claim is listed as disputed, contingent or unliquidated is required to file a proof of claim before a bar date); In re Southern Commodity Corp., 62 B.R. 4, 6 (Bankr. S.D. Fla. 1986) (finding that governmental claimant was obligated to file an unliquidated claim and failed to otherwise show excusable neglect when its only excuse for failure to file a timely claim was that it was uncertain of its entitlement to a claim amount until such amount was recognized and fixed during a separate criminal proceeding); see also, In re Kyle v. Campbell Soup Co., 28 F.3d 928 (9th Cir. 1994) (mistake of law did not constitute excusable neglect); In re Diaz, 330 B.R. 875, 879 (Bankr. M.D. Ga. 2005) (*citing* Advanced Estimating Sys. Inc. v. Riney, 130 F.3d 996 (11th Cir. 1997)).

Second, the NJDEP argued that filing or seeking leave to file a late proof of claim in October 2003, would have had the same effect, and garner the same objection from the Debtors as to the timeliness of filing, that now exists (“once we missed the bar date and once we decided to try to file a late proof of claim, I don’t think the debtors - I think the debtors would have

objected whether it was one year late, or two years late, or four years late.”) (A-20(a):23-25 - A-21(a):1). The NJDEP essentially contends that the length of delay in filing a claim after the Bar Date has past is irrelevant. The NJDEP is incorrect as a matter of law. “Length of delay” is one of the four factors cited in Pioneer. Therefore, the Bankruptcy Court rightfully disagreed with the NJDEP, stating “Even if the debtors had objected to a claim that’s filed six months late ... that seems to me to make an argument for excusable neglect because you filed the claim within what New Jersey would contend is a very short time after you found out about the claim, but the problem I have now is, it’s four years down the road, and I don’t see what takes four years to put together the fact that you have a claim....” (A-21(a):10-19).

The NJDEP also does not explain its failure to file or seek leave to file a claim during the ensuing three and a half years, while the NJDEP (i) expended the time and resources to file the New Jersey Action in violation of the automatic stay, and (ii) filed numerous other pleadings in the New Jersey state court, the New Jersey district court, and the Delaware Bankruptcy Court.⁹

Simply put, the NJDEP’s failure to file its claim on a timely basis does not constitute neglect that may be excused by the Court. The NJDEP admitted receiving notice of the Bar Date and made a conscious decision not to file a claim for years. It only sought to file a claim when it was unable to reach a settlement with the Debtors. (A-22(a):12-18).

⁹ The NJDEP filed:

- New Jersey Action in June 2005 in Superior Court of New Jersey (A-298(a)-321(a));
- motion to dismiss the Debtors’ complaint in October 2005 in Delaware Bankruptcy Court (A-205(a)-228(a));
- motion to remand to the New Jersey Superior Court in October 2005 in the District Court of New Jersey (A-322(a)-351(a));
- reply to the Debtors’ opposition to remand to New Jersey Superior Court in October 2005 in the District Court in New Jersey (A-407(a)-417(a)); and
- opposition to the Debtors’ motion to transfer venue in October 2005 in the District Court of New Jersey (A-363(a)-378(a)).

B. The NJDEP Fails to Satisfy the Pioneer Four-Factor Test.

As established above, the NJDEP has not demonstrated the requisite neglect with respect to its failure to file a timely claim. Thus, an inquiry into whether or not it has established “excusable” neglect under the Pioneer four-factor test is unwarranted. However, assuming, arguendo, that the NJDEP’s failure to file a claim prior to the Bar Date constituted neglect, the Bankruptcy Court rightfully determined such neglect was not excusable.

Whether neglect in failing to file a timely claim is “excusable,” is determined by the following factors: (i) the danger of the prejudice to the debtor; (ii) the length of delay and its potential impact on judicial proceedings; (iii) the reason for delay, including whether it was within the reasonable control of the movant; and (iv) whether the movant acted in good faith. See Pioneer, 507 U.S. at 381. The burden of proving excusable neglect lies with the movant. See Jones v. Chemetron Corp., 212 F.3d 199, 204 (3d Cir. 2000).

The Bankruptcy Court found that “excusable neglect” was determined by looking at the totality of the circumstances and applied all of the circumstances in reaching its decision. (A-26(a):21-23). It found that three of the four Pioneer factors clearly weighed against the NJDEP. (A-27(a):18-19). Specifically, the Bankruptcy Court stated that “a very long time” had past between the notices given to the NJDEP in 2002 and 2003 and the NJDEP’s moving to file a late claim. It further found that the NJDEP failed to present any argument “that indicates why there was not some action to come forward in the Bankruptcy Court before this,” other than the NJDEP hoped to liquidate its claim through a settlement, a rationale that does not satisfy the excusable neglect standard. (A-27(a):19 - A-28(a):5). The Bankruptcy Court also found that the fourth factor -- prejudice -- weighed in favor of the Debtors. (A-28(a):7 - A-29(a):7).

The only case that the NJDEP cites to support its claim of excusable neglect is In re Enron, 2003 Bankr. LEXIS 2113 (Bankr. S.D.N.Y. 2003). Enron is an unpublished opinion from

the Southern District of New York and not controlling in the Third Circuit. Additionally, rather than being on “all fours” as the NJDEP contends, Enron is easily distinguishable from the factual circumstances present before this Court and does not support the NJDEP’s position. In that case, the claimant did not know, and even with the exercise of a greater degree of diligence could not have known, of the facts to support a claim until after the bar date. Additionally, the claimant waited only *one and a half months* after learning about its claim to file a motion for leave. In sharp contrast, as reflected above, if the NJDEP had exercised due diligence, it should have known of its claim prior to the Bar Date, and the NJDEP waited *nearly four years* after it unquestionably knew of its claim to file the NJDEP Late Claim Motion.

In presenting its case, the NJDEP attempts to morph the Pioneer four-factor test into a one-factor test that revolves only around prejudice to the Debtors. Accordingly, the NJDEP selectively cites the portion of the Enron opinion that states that there was no significant prejudice to the debtors because the debtors had not filed a disclosure statement or plan of reorganization and that allowing the late claim would not have a disruptive effect upon the debtor’s plan.

The Third Circuit has held that a totality of circumstances analysis is the appropriate test in reviewing the Pioneer factors. See Welch & Forbes, Inc. v. Cendant Corp. (In re Cendant Corp. Prides Litig.), 233 F.3d 188, 196 (3d Cir. 2000). Considering the four factors set forth in Pioneer, as applied to this case:

- the danger of prejudice to the Debtors is great;
- the four-year delay in filing a motion seeking leave to file a late proof of claim is not explained, reflecting an apparent indifference to the NJDEP’s obligation to file a proof of claim, and would negatively impact the Debtors’ Chapter 11 cases;
- the reason for delay in filing a proof of claim was entirely in the reasonable control of the NJDEP as it admittedly had notice

of the Bar Date and was made aware of its potential claim well before the filing of the NJDEP Late Claim Motion; and

- the NJDEP did not act in good faith as, on the one hand, it blamed its delay on governmental bureaucracy and yet, on the other hand, admitted it did not think about filing a claim hoping instead to liquidate the claim in the New Jersey Action and reach a settlement in which its claim would be allowed.

(1) ***Prejudice***

The Supreme Court in Pioneer noted that "... were there *any evidence* of prejudice to [the debtor] ... we could not say that the Bankruptcy Court abused its discretion in declining to find the neglect to be 'excusable.'" Pioneer , 507 U.S. at 398 (emphasis added). The Third Circuit set forth a number of factors that bankruptcy courts must consider in examining prejudice:

- [1] the size of the claim with respect to the rest of the estate;
- [2] whether allowing the late claim would have an adverse impact on the judicial administration of the case; [3] whether the plan was filed or confirmed with knowledge of the existence of the claim;
- [4] the disruptive effect that the late filing would have on the plan or upon the economic model upon which the plan was based; and
- [5] whether allowing the claim open the floodgates to other similar claims.

In re O'Brien Environmental Energy, Inc., 188 F.3d 116, 126 (3d Cir. 1999) (*citing In re Keene Corp.*, 188 B.R. 903, 912-13 (Bankr. S.D.N.Y. 1995)).

The NJDEP's attempt to spin the facts to support its position, ignores that there is prejudice to the Debtors if the NJDEP's late claim is permitted. The Debtors have a Chapter 11 Plan and Disclosure Statement on file. Bankr. D.I. 7559 and 7560. The Plan calls for the payment of all allowed general unsecured claims in full. Upon concluding its current Asbestos Personal Injury Estimation Proceedings, the Debtors intend to move to confirm their Plan. The NJDEP's proposed claim of approximately \$30 million is sizable and could very well adversely impact distributions to other general unsecured creditors. Additionally, overturning the Bankruptcy Court's denial of the NJDEP Late Claim Motion would encourage uncertainty and

deprive the Debtors of any assurance of the scope of their liabilities, which was the fundamental purpose behind the Bar Date. Allowing the NJDEP's late claim to be filed now may open the "flood gates" for other late claims and render the Bar Date meaningless.

In order to progress towards confirmation of a plan, the Debtors need a degree of certainty with respect to the potential claims that will have to be satisfied. Accordingly, while the Debtors prepare for a trial on the estimation of their asbestos personal injury liabilities, the Debtors have adjudicated the great majority of their other claims.¹⁰ Permitting the NJDEP to assert such a substantial claim this late in the process will certainly be prejudicial to the Debtors and their creditors that have abided by the Bar Date.

(2) *Other Three Pioneer Factors*

There is no dispute that the NJDEP received notice of the Bar Date yet waited over four years after its expiration to file the NJDEP Late Claim Motion. There is also clear proof that the NJDEP should have known of its alleged claim at least several months before the Bar Date. Courts nationwide have "taken a hard line" in applying the "reason for delay" factor of Pioneer. See, e.g., In re Enron Corp., 419 F.3d 115, 122 (2d Cir. 2005); see also, U.S. v. Torres, 372 F.3d 1159, 1162-63 (10th Cir. 2004); In re Kmart Corp., 381 F.3d 709, 715 (7th Cir. 2004) ("[I]n this case, the factor is immensely persuasive."); Lowry v. McDonnell Douglas Corp., 211 F.3d 457, 463 (8th Cir. 2000).

Courts have found that a claimant's additional and conscious delay weighs against a finding of excusable neglect. See Trump Taj Mahal Assocs. v. Alibraham (In re Trump Taj Mahal Assocs.), 156 B.R. 928, 930-32 (Bankr. D. N.J. 1993) (denying motion for leave because

claimants waited more than one year after the bar date to file state court lawsuits instead of claims); Nat'l Steel Corp., 316 B.R. at 519 (bankruptcy court “cannot and will not ignore” claimant’s additional five month delay in filing a motion after learning of potential liability as the claimant “sat on its hands and did nothing.”).

The NJDEP’s delay is analogous to the creditors’ delay in Taj Mahal. The NJDEP Late Claim Motion was filed over four years after the Bar Date, which is three years longer than the creditors’ “significant” delay in Taj Mahal. Taj Mahal, 156 B.R. at 938. The NJDEP admits that it was aware of its alleged claim in the fall of 2003. Still, the NJDEP sat on its hands for almost two years thereafter and then filed not a claim but the New Jersey Action. It waited nearly two more years after that before it filed the NJDEP Late Claim Motion. Thus, the Bankruptcy Court properly found that the NJDEP had not established excusable neglect.

II. **The Remainder of the NJDEP’s Arguments are Irrelevant to this Appeal.**

The NJDEP spends the remaining 10 pages of its Appellant Brief discussing topics that are irrelevant to this appeal. Since it cannot establish excusable neglect, the NJDEP attempts to paint Grace in a bad light, apparently to sway this Court into thinking that the NJDEP is a “victim” and should be given leave to file its late claim. However, Grace’s alleged actions regarding the underlying claim are not at issue. As discussed above, the issue is whether the NJDEP has satisfied the excusable neglect standard in Pioneer. Accordingly, this Court should ignore the entire second half of the NJDEP’s Appellant Brief.

Specifically, in Point II of the Appellant Brief, the NJDEP discusses the environmental clean-up laws in the State of New Jersey (ISRA) and the magnitude of the State of New Jersey’s

¹⁰ Out of a total 3259 non-asbestos claims filed to date, the Debtors have resolved all but approximately 300 non-asbestos claims. In the past 15 months alone, the Debtors reduced the outstanding total of non-asbestos claims by nearly 1000. Additionally, of the approximately 4,035 asbestos property damage claims filed to date, the
(Continued...)

hazardous waste problem. The NJDEP states “Decades of industrial activity have left this state with a legacy of hazardous waste. That legacy continues to threaten the State’s public health and ecology.” See Appellant Brief at p. 17. The NJDEP also states “the State *penalty* action clearly involves critical issues of public health, safety and the environment.” See Appellant Brief at p. 19. (emphasis added) These statements are irrelevant to the issue on appeal and somewhat disingenuous. All remediation work at the Hamilton Plant has been performed by the EPA or other potentially responsible parties. The NJDEP did not perform nor pay for the clean-up, nor did it have to expend any significant administrative resources to assure its performance. And, now that the Debtors understand that the clean-up of the Hamilton Plant is complete, there is no public health, safety or environmental concern that exists. The NJDEP’s claim is, as the NJDEP itself admits, simply a penalty action meant to punish the Debtors by hitting their pocketbook.

The NJDEP also attempts to portray itself in a positive light when, in Point III of the Appellant Brief, the NJDEP discusses whether or not the New Jersey Action is an exercise of its police power exempted from the automatic stay of section 362 of the Bankruptcy Code. That issue is currently pending before the Bankruptcy Court, has not been decided, and is not ripe for review by this Court. The only relevance of the underlying litigation is to illustrate the NJDEP’s knowledge of its potential claim and attempt to do an end run around the bankruptcy process to liquidate it. The fact is, the NJDEP decided in 2005 to expend resources to file the New Jersey Action in state court, but still did not attempt to file or seek leave to file a late proof of claim in the Bankruptcy Court. Instead, the NJDEP waited nearly two more years after filing the New Jersey Action, to finally seek leave to file its proof of claim. This extremely lengthy delay,

Debtors have resolved or expunged, or the claimants have withdrawn, all but approximately 200 asbestos property damage claims.

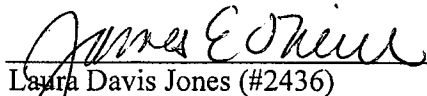
despite repeated opportunities, is in part what led the Bankruptcy Court to find that the NJDEP failed to show "excusable neglect."

CONCLUSION

For the reasons set forth herein, the Bankruptcy Court did not abuse its discretion in concluding that the NJDEP failed to establish excusable neglect in failing to file a timely proof of claim. Thus, the Bankruptcy Court's decision to deny the NJDEP permission to file such claim should be sustained.

November 26, 2007

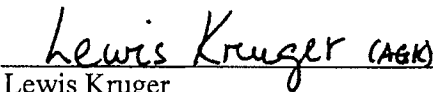
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EXHIBIT 1

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:

W. R. GRACE & CO., et al

Debtors.

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§
§

Chapter 11

Case No. 01-01139
(Jointly Administered)

CERTIFICATE OF SERVICE

I hereby certify that the applicable documents, more fully described on the attached Exhibit "A," was served April 25, 2001 via United States first class mail or applicable foreign postage, on the parties listed on the accompanying service list.

R.R. DONNELLEY & SONS

By: Pamela D. Fackler

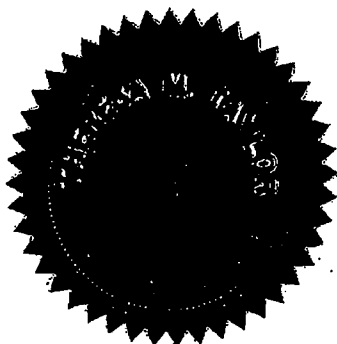
Pamela D. Fackler

1842 Colonial Village Lane
Lancaster, PA 17605
717/390-7369

Dated: 4/25/01

Theresa M. Taylor

Notarial Seal
Theresa M. Taylor, Notary Public
East Lampeter Twp., Lancaster County
My Commission Expires Dec. 8, 2003
Member, Pennsylvania Association of Notaries



UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:

W. R. GRACE & CO., et al

Debtors.

§
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Chapter 11

Case No. 01-01139
(Jointly Administered)

EXHIBIT "A" TO CERTIFICATE OF SERVICE

1. Notice of Commencement of Chapter 11 Bankruptcy Cases, Meeting of Creditors and Fixing of Certain Dates

W.R. Grace Co.
Service List
Notice of Commencement and Meeting of Creditors

Date: 04/25/2001
Time: 13:01:37

Person Code	Name	Address
1588402	N. MISS. MEDICAL CENTER	Attn 837 S. GLASTER ST. C/O SRD TUPELO MS 38802
1588471	N. MISS. MEDICAL CENTER	Attn 837 S. GLASTER ST. C/O SRD TUPELO MS 38802
1597966	N. WESTERN UNIVERSITY	Attn C/O ASC SHERATON ROAD EVANSTON IL 60201
1589282	N.A. WEST BLOCK	P O BOX 128 EAST ELLIJAY GA 30539
1589283	N.A. WEST BLOCK	HWY 282 EAST EAST ELLIJAY GA 30539
1611080	N.A. WEST BLOCK CO.	HWY. 282 EAST ELLIJAY GA 30539
1554196	N.B.M.U.A.	PO BOX 11398 NEWARK NJ 7101
1606305	N.C. GLOBAL TRANSPARK ATH.	2780 JETPORT RD., SUITE A KINSTON NC 28504
1585129	N.C. PRODUCTS	ATTN: ACCOUNTS PAYABLE RALEIGH NC 27611
1553828	N.C.M.C.A.	PO BOX 40399 RALEIGH NC 27629-0399
1585142	N.E. CEMENT BLOCK	479 BROADWAY RD. DRACUT MA 1826
1112808	N.E. CHEMCAT	678 IPPONMATSU, NUMAZU SHIZUOKA IT 99999999 JAPAN
1115638	N.E. CHEMCAT	678 IPPONMATSU, NUMAZU SHIZUOKA 410-03 IT 99999999 JAPAN
1553751	N.E. PICQUET	PO BOX 962 ANGEL FIRE NM 87710
1587667	N.E. READY MIX CONCRETE CORP.	RTE 30 FRAMINGHAM MA 1701
1553231	N.E.C.O.E.M.	50 BURROUGHS STREET BOSTON, MA MA 2130
1111721	N.E.R. DATA PRODUCTS	Attn INDUSTRIAL DRIVE INDUSTRIAL PARK BLYTHEVILLE AR 72315
1115448	N.E.R. DATA PRODUCTS	Attn ATTN: PURCHASING PO BOX 124 BLYTHEVILLE AR 72316
1601253	N.F.P.A. C/O EAST COAST	4 BATTERYMARCH PARK QUINCY MA 2169
1602558	N.H. WILBERT VAULT CO.	12 INDUSTRIAL PARK DRIVE CONCORD NH 3301
1602561	N.J. DEPT. OF STATE BLDG	Attn C/O NEW ENGLAND FIREPROOFING 200 ENTERPRISE AVE TRENTON NJ 6638
1592544	N.L.P. ENTERPRISES INC.	P.O. BOX 349 OWINGS MILLS MD 21117
1555970	N.M.FALES, INC	PO BOX 311 WESTWOOD MA 2090
1617431	N.N.E.C.P.A.	PO BOX 6427 SCARBOROUGH ME 04070-6427
1098667	N.P.R., INC.	Attn NAVIERAS PO BOX 8069 PHILADELPHIA PA 19101-8069
1572309	N.S. LOWE COMPANY, INC.	76 8TH AVENUE NEW YORK NY 10011
1609084	N.S.P.	Attn C/O OLYMPIC WALL 414 NICHOLET MALL MINNEAPOLIS MN 55402
1555273	N.T. FASTENERS & SUPPLY	PO BOX 1026 THREE RIVERS MI 49093
1586137	N.T. GARGIULO/DRESICK	Attn 35300 W. SHAW AVENUE PHOENIX COATINGS FIREBAUGH CA 93622
1603820	N.W. AIRLINES/DETROIT-MIDFIELD TERM	Attn HUBART, HUNT & NICHOLS SITE C/O J.L. MANTA 2700 MIDFIELD DRIVE DETROIT MI 48242
1603880	N.W. ATHLETIC CLUB	Attn C/O BAH., INC. 85TH AVENUE OFF OF 1-84 MAPLE GROVE MN 55369
1579337	N.W. MARTIN BROTHERS	1531 SAINT JAMES STREET RICHMOND VA 23222
1587942	N.W. PIPE COMPANY	12351 RANCHO RD. ADELANTO CA 92301
1617555	N.W. WALL & CEILING BUREAU	1032-A NE 65TH STREET SEATTLE WA 98115
1545181	N.Y.C. DEPT. OF FINANCE	Attn CHURCH STREET STATION P.O. BOX 9097 NEW YORK NY 10256-9097
1587097	N0018102	Attn NORFOLK NAVAL SHIPYARD RECEIVING OFFICER, BLDG. 276 PORTSMOUTH VA 23709-5000
1111736	N0042160	Attn RECEIVING OFFICER, MS-31 SUPPLY DEPT. BLDG. 665 PATUXENT RIVER MD 20670-5665
1097901	N57	N57W24728 NIGHTHAWK CT. SUSSEX WI 53089-5049
1554651	NAA/NRMCA	P.O. BOX 79433 BALTIMORE MD 21279-0433
1120354	NABA K DAS	3605 MELLOR VALLEY CT ELLICOTT CIT MD 21042-3759

Date: 04/25/2001
Time: 13:01:37

W.R. Grace Co.
Service List
Notice of Commencement and Meeting of Creditors

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1583920	NEW HOLLAND CONCRETE PROD	Attn 825 E.JACKSON ST PO BOX 198 NEW HOLLAND PA 17557
1583921	NEW HOLLAND CONCRETE PROD	PO BOX 218 NEW HOLLAND PA 17557
1583922	NEW HOLLAND CONCRETE PRODUCTS	828 EAST EARL ROAD NEW HOLLAND PA 17557
1101560	NEW HORIZONS	P.O. BOX 23946 CHATTANOOGA TN 37422-3346
1564816	NEW HORIZONS	P O BOX 891554 DALLAS TX 75389-1554
1560239	NEW HORIZONS	4680 N UNIVERSITY DR FORT LAUDERDALE FL 33351
1557608	NEW HORIZONS	Attn SUITE 100 33 VILLA RD GREENVILLE SC 29615
1550910	NEW HORIZONS	14115 FARMINGTON ROAD LIVONIA MI 48154
1548748	NEW HORIZONS	14115 FARMINGTON ROAD LIVONIA MI 48154
1548749	NEW HORIZONS	Attn COMPUTER LEARNING CENTERS INC, 1231 E. DYER ROAD SUITE 140 SANTA ANA CA 92705-5643
1615011	NEW HORIZONS CLC OF LOS ANGELES	100 CORPORATE POINTE,SUITE 195 CULVER CITY CA 90230
1616144	NEW HORIZONS CLC OF NASHVILLE INC.	P O BOX 154 MEMPHIS TN 38101-0154
1545200	NEW HORIZONS COMPUTER LEARNING	2600 THOUSAND OAKS BLVD MEMPHIS TN 38118
1551998	NEW HORIZONS COMPUTER LEARNING	Attn CENTER 2851 S PARKER ROAD #1300 AURORA CO 80014-2734
1614806	NEW HORIZONS COMPUTER LEARNING	Attn CENTERS OF BIRMINGHAM/MONTGOMERY 801 BEACON PARKWAY WEST SUITE 106 BIRMINGHAM AL 35209
1103116	NEW HORIZONS COMPUTER LEARNING CENT	7125 AMBASSADOR RD., STE. 100 BALTIMORE MD 21244
1551105	NEW HORIZONS COMPUTER LEARNING CENT	5 OLD CONCORD ROAD BURLINGTON MA 1803
1548750	NEW HORIZONS COMPUTER LEARNING CTR	5 OLD CONCORD ROAD BURLINGTON MA 1803
1565561	NEW HORIZONS COMPUTER LEARNING CTR	P O LOCKBOX 931814 ATLANTA GA 31193
1616336	NEW HORIZONS COMPUTER LEARNING CTR	7480 MIRAMAR ROAD SUITE 202 SAN DIEGO CA 92126
1554608	NEW HORIZONS LANDSCAPING	PO BOX 338 FANWOOD NJ 7023
1598809	NEW HOUSE ROYAL ATHLETIC CENTER	Attn C/O TOMAN & ASSOCIATES 1910 EAST CAMPUS DRIVE AUSTIN TX 78705
1565829	NEW INTERSTATE CONCRETE	2223 E MARGARET DRIVE TERRE HAUTE IN 47802
1614304	NEW INTERSTATE CONCRETE	PORTABLE PLANT, VARIOUS LOCATIONS TERRE HAUTE IN 47802
1585242	NEW INTERSTATE CONCRETE	2213 MARGARET AVE TERRE HAUTE IN 47802
1585243	NEW INTERSTATE CONCRETE	2213 MARGARET AVENUE TERRE HAUTE IN 47802
1585244	NEW INTERSTATE CONCRETE SOUTH	3700 N. 13TH STREET TERRE HAUTE IN 47805
1607951	NEW ISLE HOSPITAL	Attn C/O EASTERN MATERIALS 4295 HEMSTEAD TURNPIKE BETHPAGE NY 11714
1548751	NEW JERSEY CONCRETE &	Attn AGGREGATE ASSOCIATION 1230 PARKWAY AVE STE 101 WEST TRENTON NJ 08628
1068612	NEW JERSEY DEPT OF ENV PROTECTION	Attn GARY GRUELICH PROJECT MANAGER DIVISION OF SITE REMEDIATION 2 BABCOCK PLACE WEST ORANGE NJ 07052
1068709	NEW JERSEY DEPT OF ENV PROTECTION	Attn SERGIO HONL CASE MANAGER 401 EAST STATE STREET P. O. BOX 493 TRENTON NJ 08625
1068614	NEW JERSEY DEPT OF ENV PROTECTION	Attn MR. HARRY HORNICKEL SOUTHERN AIR PROGRAM 2 RIVERSIDE DRIVE SUITE 201 CAMDEN NJ 08103
1068613	NEW JERSEY DEPT OF ENV PROTECTION	Attn MR. RICHARD BURGOS DIV OF RESPONSIBLE PARTY SITE REMED 401 EAST STATE STREET CN 028 TRENTON NJ 08625-0028
1618061	NEW JERSEY DEPT OF ENVIRONMENTAL	Attn PROTECTION BUREAU OF FUND MANAGEMENT COMPLIANCE & RECOVERY 22 SOUTH CLINTON AVENUE 3RD FLOOR TRENTON NJ 08625
1598043	NEW JERSEY DEPT OF STATE BUILDING	Attn C/O NORTHEAST FIREPROOFING 225 WEST STATE STREET TRENTON NJ 08638
1553663	NEW JERSEY DIV OF MOTOR VEHICLES	CN 008 TRENTON NJ 08668-0008
1563497	NEW JERSEY ECONOMIC DEVELOPMENT	Attn AUTHORITY 22 SOUTH CLINTON AVE TRENTON NJ 08625

Date: 04/25/2001
Time: 13:01:37

W.R. Grace Co.
Service List
Notice of Commencement and Meeting of Creditors

Person Code	Name	Address
1653237	NIX JAMES	Attn JAMES 5821 CHERRY ROAD LAKE LAND FL 33809
1653238	NIX JAMES	Attn JAMES 7 BREWSTER DRIVE TAYLORS SC 29887
1653239	NIX JIMMIE	Attn JIMMIE ROUTE 1, BOX 340 WATERLOO SC 29384
1653240	NIX JOHN	Attn JOHN 267 BETHANY CHURCH ROAD MOORE SC 29369
1653241	NIX MARCUS	Attn MARCUS 512 PARK HAYWOOD APT GREENVILLE SC 29607
1653242	NIX MARCUS	Attn MARCUS 512 PARK HAYWOOD APT GREENVILLE SC 29607
1653243	NIX NILES	Attn NILES 986 ROCKY RIDGE ROAD ENOREE SC 29335
1078599	NIX NILES E	986 ROCKY RIDGE ROAD ENOREE SC 29335
1653244	NIX PATRICIA	Attn PATRICIA RT 2 BOX 2389 MAYSVILLE GA 30588
1595044	NIX READY MIX	HWY 87 SOUTH TIMPSON TX 75975
1613750	NIX READY MIX, INC.	PO BOX 190 TIMPSON TX 75975
1593236	NIX READY MIX, INC.	P O BOX 190 TIMPSON TX 75975
1653246	NIX TERESA	Attn TERESA RT 1 BOX 385 HULL GA 30846
1653247	NIX TERRY	Attn TERRY 108 RICHARDSON ST SIMPSONVILLE SC 29881
1653249	NIX THERESA	Attn THERESA 245 CONGAREE RD #906 GREENVILLE SC 29607
1653250	NIX THOMAS	Attn THOMAS RT. 6, BOX 972 REIDSVILLE NC 27320
1653251	NIX VERDIE	Attn VERDIE 4756 PRINCETON MEMPHIS TN 38117
1670945	NIX, PATTERSON & ROACH, LLP	2900 SAINT MICHAEL DRIVE, 5TH FLOOR TEXARKANA TX 75503
1602552	NIXA HIGH SCHOOL	Attn C/O SMC HIGHWAY 14 SPRINGFIELD MO 65801
1105390	NIXON	11860 OLD BALTIMORE PIKE BELTSVILLE MD 20705
1564306	NIXON	2925 NORTHEAST BLVD WILMINGTON DE 19802
1106078	NIXON	Attn UNIFORM SERVICE, INC. 2925 NORTHEAST BLVD, WILMINGTON DE 19802
1653252	NIXON ARGUS	Attn ARGUS P. O. BOX 3841 HOUMA LA 70360
1566777	NIXON BURGER	12605 SW 71ST AVE MIAMI FL 33156
1653253	NIXON DAVID	Attn DAVID ROUTE 2 BOX 46 WILBURTON OK 74578
1545215	NIXON EXTERMINATING INC	P O BOX 1963 GASTONIA NC 28053-1963
1653254	NIXON GERALD	Attn GERALD 1661 SNOWSHOE RD LIBBY MT 59923
1545214	NIXON HARGRAVE DEVANS & DOYLE	ONE KEYCORP PLAZA ALBANY NY 12207
1128892	NIXON JEREMIAH W	SUPREME CT BLDG 207 W HIGH ST JEFFERSON CITY MO 65101
1653257	NIXON LEONARD	Attn LEONARD 3141 HOUSTON RIVER ROAD WEST LAKE LA 70669
1653258	NIXON T	Attn T 3714 N. 32ND STREET TAMPA FL 33610
1075711	NIXON, HALL & HESS	80 MERRIMACK STREET MANCHESTER NH 3101
1120256	NIZAMI USTA	40 SKILTON LANE BURLINGTON MA 01803-2141
1567155	NIZAM USTA	Attn C/O W R GRACE & CO. 62 WHITTEMORE AVE, CAMBRIDGE MA 02140
1555594	NJ CHAPTER ACI	Attn DIANNE JOHNSTON, NJACI EXEC DIR. 25 IRELAND BROOK DRIVE, RD#4 NORTH BRUNSWICK NJ 8902
* 16181718	NJ DEPT OF ENV PROTECTION	ROBERT SHINN JR COMMISSIONER 401 E STATE ST PO BOX 402 TRENTON NJ 08625-0402
* 1621175	NJ DEPT OF ENV PROTECTION	GARY GRUELICH PROJECT MANAGER DIVISION SITE REMEDIATION 2 BABCOCK PLACE WEST ORANGE NJ 07052
* 1618722	NJ DEPT OF ENV PROTECTION	ROBERT SHINN JR COMMISSIONER 401 E STATE ST - P O BOX 402 TRENTON NJ 08625-0402
* 1618882	NJ DEPT OF ENV PROTECTION AND ENERG	SECTION CHIEF 401 EAST STATE ST FIFTH FLOOR TRENTON NJ 08625
* 1620244	NJ DEPT OF ENV PROTECTION AND ENERG	DEBORAH COWELL 2 BABCOCK PLACE WEST ORANGE NJ 07052

W.R. Grace Co.
Service List

Date: 04/25/2001
Time: 13:01:37

Notice of Commencement and Meeting of Creditors

Person Code	Name	Address
1558503	NJ DIVISION OF FIRE SAFETY	Attn DIVISION OF FIRE SAFETY PO 807 TRENTON NJ 08625-0809
1128797	NJ FRESHWATER WETLANDS MITIGATION	NJ DPT OF ENV PROT LAND USE PRGRAM CN401 TRENTON NJ 08625
1587907	NJ PORT WATER AUTHORITY	ROUTE 31 CLINTON NJ 8809
1552925	NUCAA	1230 PARKWAY AVENUE SUITE #101 TRENTON NJ 8628
1599530	NUCAA	1230 PKWY AVE., STE 101 WEST TRENTON NJ 8628
1070903	NUDEP	Attn BUREAU OF REVENUE PO BOX 417 TRENTON NJ 08625-0417
1559262	NUDEP	Attn BUREAU OF REVENUE PO BOX 417 TRENTON NJ 08625-0417
1553259	NUINBAM LOVALLA	Attn LOVALLA 308 POPLAR LANE MAULDIN SC 29662
1581398	NUJT	Attn LOCK STREET C.H.E.N BUILDING NEWARK NJ 7101
1107882	NKK CORPORATION	Attn TSURUMI-KU 2-1, SUEHIRO-CHO YOKOHAMA IT 99999999 JAPAN
1072938	NL ENVIRONMENTAL MGMT SERVICES INC	Attn C/O CASEY & YOUNG LLC 14015 PARK DRIVE SUITE 109 TOMBALL TX 77375
1821154	NL INDUSTRIES INC	JANET D SMITH ASSOCIATE GEN COUN 445 PARK AVE NEW YORK NY 10022
1821156	NL INDUSTRIES INC	JAMES H SCHINK KIRKLAND & ELLIS 200 EAST RANDOLPH DRIVE CHICAGO IL 60601
1821155	NL INDUSTRIES INC	BARRY L SAMS PO BOX 1090 HIGHTSTOWN NJ 08520
1103111	NLC	P.O. BOX 7222 LAKE CHARLES LA 70606
1597742	NLU LIBRARY	Attn C/O JOE BANKS DRYWALL 4100 NORTHEAST DRIVE MONROE LA 71209
1548753	NM READY MIX CONCRETE &	Attn AGGREGATES ASSOC. P.O. BOX 35128 ALBUQUERQUE NM 87176
1553389	NMC	Attn C/O JIM LUTHER 95 HAYDE N. AVE. LEXINGTON MA 2173
1070103	NNR AIRCARGO SERVICE INC	24 RAILROAD ST REVERE MA 2151
1853260	NNRTIN DAVID	Attn DAVID 204 COOL BROOK DR GREENVILLE SC 29605
1585325	NO BAY DRYWALL CO	PO BOX 750007 PETALUMA CA 94975
1554474	NO DIVISION-CAMBRIDGE LITTLE	Attn BASEBALL LEAGUE 141 OXFORD ST CAMBRIDGE MA 2140
1552377	NO JERSEY JOINT BOARD TEXTILE	Attn WORKERS 275 7TH AVE FLOOR 11 NEW YORK NY 10001-5708
1560163	NO JERSEY JOINT BOARD TEXTILE	Attn WORKERS 4810 KENNEDY BLVD UNION CITY NJ 07087-2715
1560591	NO METRO RADIO ASSOC-PUTNAM	PO BOX 300000 DEPT 5057 HARTFORD CT 06150-5057
1562895	NO ON I-695	Attn WACA 1605 - 116TH AVENUE NE BELLEVUE WA 98004-3034
1108816	NO TOUCH NORTH AMERICA	Attn SUITE 100 20472 CRESCENT BAY DRIVE LAKE FOREST CA 92630-8817
1598635	NO-NAME BAR-B-Q, INC.	101 S.TATAR PASADENA TX 77506
1545223	NO. AMERICAN SYSTEMS INTL	Attn SUITE BB 9201 E. BLOOMINGTON FRWY BLOOMINGTON MN 55420
1598327	NO. DAKOTA STATE UNIVERSITY	Attn 12TH. AVE. NO & UNIVERSITY DR. COMPUTER CENTER FARGO ND 58102
1553218	NO. JERSEY JOINT BOARD TEXTILE WRKR	Attn UNION OF AMERICA AFLCIO 4810 KENNEDY BLVD. UNION CITY NJ 07087-2715
1548784	NO. JERSEY JOINT BOARD TEXTILE	Attn WORKERS UNION AMERICA AFLCIO 275 7TH AVE. 11TH FLOOR NEW YORK NY 10001
1551635	NOAA	Attn DISTRIBUTION BR N/C333 NATIONAL OCEAN SERVICE RIVERDALE MD 20737-1189
1554563	NOAA	NATIONAL OCEAN SERVICE N/C333 RIVERDALE MD 20737-1189
1563477	NOAA NATIONAL DATA CENTERS	PO BOX 70169 CHICAGO IL 60673-0169
1615300	NOAH BUDIANSKY	Attn C/O WR GRACE 62 WHITTEMORE AVENUE CAMBRIDGE MA 2140
1653261	NOAH LEWIS	Attn LEWIS 107 GREER CT GREER SC 29650
1563244	NOAH PELL	637 KING STREET FRANKLIN MA 2038
1568884	NOAH PELL	Attn C/O WR GRACE 62 WHITTEMORE AVE CAMBRIDGE MA 2140
1107884	NOAH TECHNOLOGIES	1 NOAH PARK SAN ANTONIO TX 78249-3419

Date: 04/25/2001
Time: 13:01:37

W.R. Grace Co.
Service List
Notice of Commencement and Meeting of Creditors

Person Code	Name	Address
1621181	STATE OF FL DEPT OF ENV REGULATION	OFFICE OF GEN COUN 2600 BLAIR STONE ROAD TALLAHASSEE FL 32301
1128808	STATE OF FLORIDA	FL DEPT OF TRANS. 2540 EXECUTIVE CTR CIRCLE WEST DOUGLAS BLDG SUITE 208 TALLAHASSEE FL 32399
1582565	STATE OF FLORIDA	Attn DEPT OF INSURANCE AND STATE TREAS POST OFFICE BOX 8100 TALLAHASSEE FL 32314-6100
1614575	STATE OF FLORIDA	Attn UJC FUND A/C #1415356 CALDWELL BLDG TALLAHASSEE FL 32399-0216
1565851	STATE OF FLORIDA DISBURSEMENT UNIT	P O BOX 8500 TALLAHASSEE FL 32315-8500
1550990	STATE OF ILLINOIS	Attn P O BOX 3331 DIVISION OF MANAGEMENT SERVICES SPRINGFIELD IL 62708-3331
1560833	STATE OF ILLINOIS	Attn DEPARTMENT OF NUCLEAR SAFETY 1035 OUTER PARK DRIVE SPRINGFIELD IL 62704-4462
1098813	STATE OF INDIANA	Attn OFFICE OF THE ATTORNEY GENERAL 402 W. WASHINGTON ST. INDIANAPOLIS IN 46204-2770
1552553	STATE OF KS DEPT OF REVENUE	PO BOX 12003 TOPEKA KS 66612
1119637	STATE OF LOUISIANA	SECRETARY OF REVENUE & TAXATION UNCLAIMED PROPERTY PO BOX 91010 BATON ROUGE LA 70823-9010
1119636	STATE OF LOUISIANA DEPT OF	REVENUE & TAXATION UNCLAIMED PROPERTY P O BOX 91010 BATON ROUGE LA 70823-9010
1604035	STATE OF MAINE MUSEUM	Attn C/O NEW ENGLAND FIREPROOFING PICK UP AT BARRETT'S CAPITAL COMPLEX AUGUSTA ME 4330
1108435	STATE OF MARYLAND	Attn DHCD: ACCOUNTS PAYABLE 100 COMMUNITY PLACE CROWNSVILLE MD 21032-2023
1112377	STATE OF MARYLAND	Attn ATTN RONALD ORR DHCD: JEFFERSON PATTERSON PARK 10515 MACKALL ROAD SAINT LEONARD MD 20685
1618070	STATE OF MARYLAND	DEPARTMENT OF THE ENVIRONMENT 2500 BROENING HIGHWAY BALTIMORE MD 21224
1112376	STATE OF MARYLAND	Attn ATTN RONALD ORR DHCD: JEFFERSON PATTERSON PARK 10515 MACKALL ROAD SAINT LEONARD MD 20685
1619086	STATE OF MARYLAND DEPT OF ENV	MS JANE T NISHIDA SECRETARY 2500 BROENING HIGHWAY -- 2ND FLOOR BALTIMORE MD 21224
1114271	STATE OF MARYLAND TREASURER'S OFFIC	PO BOX 74670 ANNAPOLIS MD 21404-0746
1570652	STATE OF MARYLAND WORKERS	Attn COMPENSATION COMMISSION 6 NORTH LIBERTY ST BALTIMORE MD 21201-3785
1070590	STATE OF MICHIGAN	Attn MICHIGAN DEPT. OF ENVIRONMENTAL QUALITY CASHIERS OFFICE PO BOX 30657 LANSING MI 48909-8157
1554975	STATE OF MICHIGAN	Attn MICHIGAN DEPT. OF ENVIRONMENTAL P.O. BOX 30657 LANSING MI 48909-8157
1560686	STATE OF MICHIGAN	Attn DEPARTMENT OF TRANSPORTATION P.O. BOX 30050 LANSING MI 48909
1551617	STATE OF MICHIGAN	Attn CASHIERS/DEPT NAT RES P O BOX 30028 LANSING MI 48909-7528
1619350	STATE OF MINNESOTA OFFICE OF THE A	STEPHEN SHAKMAN AND JENNIFER BEENS 102 STATE CAPITOL ST PAUL MN 55155-1002
1128810	STATE OF MONTANA	BOARD OF LAND COMMISSIONERS HELENA MT 59620
1615927	STATE OF NEBRASKA	Attn DEPT. OF AGRICULTURE PO BOX 94756 LINCOLN NE 68509
1618097	STATE OF NEW HAMPSHIRE	Attn MOTOR VEHICLES SALEM MUNICIPAL BLDG SALEM NH 3079
1621212	STATE OF NEW HAMPSHIRE	CHERYL MCGARY NHDES CONCORD NH
1558395	STATE OF NEW MEXICO	Attn MOTOR TRANSPORTATION DIVISION PO BOX 1028 SANTA FE NM 87504-1028
1088304	STATE OF NJ	Attn TREASURER CN 417 TRENTON NJ 8625
1621189	STATE OF NJ DEPT OF ENV PROTECTION	CN 028 TRENTON NJ 08625
1577196	STATE OF NJ, DIV OF BLDG & CONST	Attn C/O CAPITAL SAFETY CONTRACT # DBC: A510-40-05C01 50 BARRACK STREET, CN 235 TRENTON NJ 8638
1107892	STATE OF NORTH CAROLINA	Attn ATTN: MS. NERISSA KEELE PO BOX 29580 RALEIGH NC 27626
1552527	STATE OF NORTH CAROLINA	Attn ATTN: MS. NERISSA KEELE PO BOX 29580 RALEIGH NC 27626
1111761	STATE OF NORTH CAROLINA	Attn ATTN: MR. JOHN GITTING NC DENR/DQA/ECB 4403 REEDY CREEK ROAD RALEIGH NC 27607
1545221	STATE OF NORTH CAROLINA	Attn RADIATION PROT. COMMISSN P.O. BOX 27687 RALEIGH NC 27611-7687
1619092	STATE OF NORTH CAROLINA DEPT OF EN	REGIONAL SUPERVISOR 919 NORTH MAIN ST MOORESVILLE NC 28115
1555374	STATE OF OHIO, BMV	4650 LAKE FOREST DRIVE CINCINNATI OH 45242
1128812	STATE OF OREGON	LIC UTILITY COMM. OF OR LABOR & INDUSTRIES BLDG SALEM OR 97310
1608811	STATE OF OREGON C/O	Attn PSOB ATTN: WENDELL WHISTLER 800 NE OREGON STREET PORTLAND OR 97232

EXHIBIT 2

In re: W.R. GRACE & CO.-CONN., Case No. 01-01140

SCHEDULE F - CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS

CREDITOR'S NAME AND MAILING ADDRESS INCLUDING ZIP CODE	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM, IF CLAIM IS SUBJECT TO SETOFF, SO STATE	CONTINGENT, UNLIQUIDATED DISPUTED	AMOUNT OF CLAIM
1683652 - 10068218 STATE OF MISSOURI Attn DEPARTMENT OF REVENUE 301 WEST HIGH STREET JEFFERSON CITY MO 65105	TAXES, INTEREST AND PENALTIES ALL OPEN TAX YEARS	Contingent, Disputed, Unliquidated	Unknown
1128810 - 10324755 STATE OF MONTANA BOARD OF LAND COMMISSIONERS HELENA MT 59620	SURETY BOND APPLICANT FOR S/B NO. 188446 FOR \$39,000 WITH ST. PAUL EXPIRING 09-JAN-01	Contingent, Disputed, Unliquidated	Unknown
1128810 - 10324756 STATE OF MONTANA BOARD OF LAND COMMISSIONERS HELENA MT 59620	SURETY BOND APPLICANT FOR S/B NO. 143329 FOR \$66,700 WITH ST. PAUL EXPIRING 14-AUG-01	Contingent, Disputed, Unliquidated	Unknown
1619218 - 10071124 STATE OF NC/SEABOARD CHEMICAL CORP	ENVIRONMENTAL CLAIM	Contingent, Disputed, Unliquidated	Unknown
1621212 - 10073118 STATE OF NEW HAMPSHIRE CHERYL MCGARY NHDES CONCORD NH	ENVIRONMENTAL CLAIM	Contingent, Disputed, Unliquidated	Unknown
1683663 - 10068229 STATE OF NEW JERSEY Attn DIVISION OF TAXATION 50 BARRACK STREET P. O. BOX 240 TRENTON NJ 8646	TAXES, INTEREST AND PENALTIES ALL OPEN TAX YEARS	Contingent, Disputed, Unliquidated	Unknown
1683682 - 10068248 STATE OF NEW MEXICO Attn TAXATION AND REVENUE DEPARTMENT P. O. BOX 630 1100 S. ST. FRANCIS DRIVE SANTA FE NM 87504	TAXES, INTEREST AND PENALTIES INCOME TAX: 1988-1991	Contingent, Disputed, Unliquidated	Unknown
1128811 - 10324757 STATE OF NEW YORK	SURETY BOND APPLICANT FOR S/B NO. 400SC6484 FOR \$25,650,742 WITH ST. PAUL EXPIRING 14-AUG-01	Contingent, Disputed, Unliquidated	Unknown
1683664 - 10068230 STATE OF NEW YORK Attn DEPARTMENT OF TAXATION AND FINANCE W. A. HARRIMAN CAMPUS BUILDING #9 ALBANY NY 12227	TAXES, INTEREST AND PENALTIES ALL OPEN TAX YEARS	Contingent, Disputed, Unliquidated	Unknown
* 1621189 - 10073095 STATE OF NJ DEPT OF ENV PROTECTION CN 028 TRENTON NJ 08625	ENVIRONMENTAL CLAIM	Contingent, Disputed, Unliquidated	Unknown
1683666 - 10068232 STATE OF NORTH CAROLINA Attn DEPARTMENT OF REVENUE 501 N. WILMINGTON STREET RALEIGH NC 27640	TAXES, INTEREST AND PENALTIES INCOME/FRANCHISE TAX: 1992-1994	Contingent, Disputed, Unliquidated	Unknown

In re: W.R. GRACE & CO.-CONN., Case No. 01-01140

SCHEDULE F - CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS

CREDITOR'S NAME AND MAILING ADDRESS INCLUDING ZIP CODE	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM, IF CLAIM IS SUBJECT TO SETOFF, SO STATE	CONTINGENT, UNLIQUIDATED DISPUTED	AMOUNT OF CLAIM
1619114 - 10071020 NEW ENGLAND PLASTICS CORP	ENVIRONMENTAL CLAIM	Contingent, Disputed, Unliquidated	Unknown
1548739 - 10317224 NEW ENGLAND RESINS & PIGMENTS Attn CORPORATION P O BOX 9381 BOSTON MA 02209-9381	TRADE PAYABLE PRE-PETITION INVOICE PAID UNDER FIRST DAY MOTIONS	Disputed	\$997.50
1561092 - 10318024 NEW ENGLAND ROUNDTABLE Attn JOE CARTER, C/O SERVICE BY AIR 134 RAILROAD AVE REVERE MA 02151	TRADE PAYABLE		\$300.00
1548740 - 10317225 NEW ENGLAND RUBBER INC. Attn ROUTE #1 55 COMMERCIAL CIRCLE DEDHAM MA 02026	TRADE PAYABLE PRE-PETITION INVOICE PAID UNDER FIRST DAY MOTIONS	Disputed	\$1,205.38
1694106 - 10327600 NEW HORIZONS DIAGNOSTICS CORP. Attn LAWRENCE LOOMIS PRESIDENT 11301 BUCKLEBERRY PATH COLUMBIA MD 21044	ENVIRONMENTAL CODEFENDANT	Contingent, Disputed, Unliquidated	Unknown
* 1069612 - 10069869 NEW JERSEY DEPT OF ENV PROTECTION Attn GARY GRUBELICH PROJECT MANAGER DIVISION OF SITE REMEDIATION 2 BABCOCK PLACE WEST ORANGE NJ 07052	ENVIRONMENTAL CLAIM	Contingent, Disputed, Unliquidated	Unknown
* 1069613 - 10069870 NEW JERSEY DEPT OF ENV PROTECTION Attn MR. RICHARD BURGOS DIV OF RESPONSIBLE PARTY SITE REMED 401 EAST STATE STREET CN 028 TRENTON NJ 08625-0028	ENVIRONMENTAL CLAIM	Contingent, Disputed, Unliquidated	Unknown
* 1069614 - 10069871 NEW JERSEY DEPT OF ENV PROTECTION Attn MR. HARRY HORNIKEL SOUTHERN AIR PROGRAM 2 RIVERSIDE DRIVE SUITE 201 CAMDEN NJ 08103	ENVIRONMENTAL CLAIM	Contingent, Disputed, Unliquidated	Unknown
* 1069709 - 10069979 NEW JERSEY DEPT OF ENV PROTECTION Attn SERGIO HONL CASE MANAGER 401 EAST STATE STREET P. O. BOX 433 TRENTON NJ 08625	ENVIRONMENTAL CLAIM	Contingent, Disputed, Unliquidated	Unknown
* 1618061 - 10324793 NEW JERSEY DEPT OF ENVIRONMENTAL Attn PROTECTION BUREAU OF FUND MANAGEMENT COMPLIANCE & RECOVERY 22 SOUTH CLINTON AVENUE 3RD FLOOR TRENTON NJ 08625	LETTERS OF CREDIT APPLICANT FOR L/C NO. 295596 FOR \$620,000 WITH JP MORGAN CHASE EXPIRING 08-DEC-01	Contingent, Disputed, Unliquidated	Unknown

In re: W.R. GRACE & CO.-CONN., Case No. 01-01140

SCHEDULE F - CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS

CREDITOR'S NAME AND MAILING ADDRESS INCLUDING ZIP CODE	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM, IF CLAIM IS SUBJECT TO SETOFF, SO STATE	CONTINGENT, UNLIQUIDATED, DISPUTED	AMOUNT OF CLAIM
* 1618718 - 10070624 NJ DEPT OF ENV PROTECTION ROBERT SHINN JR COMMISSIONER 401 E STATE ST PO BOX 402 TRENTON NJ 08625-0402	ENVIRONMENTAL CLAIM	Contingent, Disputed, Unliquidated	Unknown
* 1618722 - 10070628 NJ DEPT OF ENV PROTECTION ROBERT SHINN JR COMMISSIONER 401 E STATE ST - P O BOX 402 TRENTON NJ 08625-0402	ENVIRONMENTAL CLAIM	Contingent, Disputed, Unliquidated	Unknown
* 1621175 - 10073081 NJ DEPT OF ENV PROTECTION GARY GRUELICH PROJECT MANAGER DIVISION SITE REMEDIATION 2 BABCOCK PLACE WEST ORANGE NJ 07052	ENVIRONMENTAL CLAIM	Contingent, Disputed, Unliquidated	Unknown
* 1618882 - 10070788 NJ DEPT OF ENV PROTECTION AND ENERG SECTION CHIEF 401 EAST STATE ST FIFTH FLOOR TRENTON NJ 08625	ENVIRONMENTAL CLAIM	Contingent, Disputed, Unliquidated	Unknown
* 1620244 - 10072150 NJ DEPT OF ENV PROTECTION AND ENERG DEBORAH COWELL 2 BABCOCK PLACE WEST ORANGE NJ 07052	ENVIRONMENTAL CLAIM	Contingent, Disputed, Unliquidated	Unknown
1128797 - 10324741 NJ FRESHWATER WETLANDS MITIGATION NJ DPT OF ENV PROT LAND USE PRGRAM CN401 TRENTON NJ 08625	SURETY BOND APPLICANT FOR S/B NO. 370083 FOR \$14,550 WITH TRAVELERS EXPIRING 22-DEC-02	Contingent, Disputed, Unliquidated	Unknown
1693867 - 10327837 NL INDUSTRIES Attn PRENTICE-HALL CORP. SYSTEM 2711 CENTERVILLE RD. STE 400 WILMINGTON DE 19808	ENVIRONMENTAL CODEFENDANT	Contingent, Disputed, Unliquidated	Unknown
1621154 - 10073060 NL INDUSTRIES INC JANET D SMITH ASSOCIATE GEN COUN 445 PARK AVE NEW YORK NY 10022	ENVIRONMENTAL CLAIM	Contingent, Disputed, Unliquidated	Unknown
1621155 - 10073061 NL INDUSTRIES INC BARRY L SAMS PO BOX 1090 HIGHSTOWN NJ 08520	ENVIRONMENTAL CLAIM	Contingent, Disputed, Unliquidated	Unknown
1621156 - 10073062 NL INDUSTRIES INC JAMES H SCHINK KIRKLAND & ELLIS 200 EAST RANDOLPH DRIVE CHICAGO IL 60601	ENVIRONMENTAL CLAIM	Contingent, Disputed, Unliquidated	Unknown

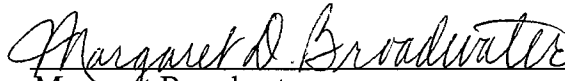
**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	
)	
W. R. GRACE & CO., <i>et al.</i> ,)	Case No. 07-00536 (RLB)
)	
<i>Debtors.</i>)	
<hr/>		
STATE OF NEW JERSEY,)	
DEPARTMENT OF ENVIRONMENTAL)	
PROTECTION,)	
<i>Appellants,</i>)	
)	
v.)	
)	
W.R. GRACE & CO., <i>et al.</i>)	
)	
<i>Appellees.</i>)	
<hr/>		

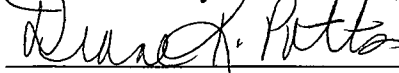
AFFIDAVIT OF SERVICE

Margaret Broadwater, being duly sworn according to law, deposes and says that she is employed by the law firm of Pachulski Stang Ziehl & Jones LLP, co-counsel for the Debtors, in the above-captioned action, and that on the 26th day of November 2007 she caused a copy of the following document(s) to be served upon the attached service list(s) in the manner indicated:

BRIEF OF APPELLEES


Margaret Broadwater

Sworn to and subscribed before
me this 26th day of November, 2007



Notary Public
My Commission Expires: 2-20-08

DIANE K. POTTS
NOTARY PUBLIC
STATE OF DELAWARE
DOCS_DE:133133.1
My Commission Expires Feb. 20, 2008

W. R. Grace Core Group Service List
Case No. 01-1139 (JKF)
Document Number: 27348
07 – Hand Delivery
11 – First Class Mail

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W.R. Grace and Co.
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New York, NY 10152

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W.R. Grace Special Service List
for Brief of Appellees
Case No. 07-00536
01-via Hand Delivery
02-via Email

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